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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

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UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION

In the Matter of )  
)  
Petition of the People of the )  
State of California and the )  
Public Utilities Commission ) PR Docket No. 94-105  
of the State of California )  
to Retain Regulatory Authority )  
Over Intrastate Cellular Service Rates )  
\_\_\_\_\_ )

PROTECTIVE ORDER AND DECLARATIONS OF CELLULAR CARRIERS  
ASSOCIATION OF CALIFORNIA

1. For purposes of this Order, "Confidential Information" shall mean and include trade secrets and commercial or financial information which is privileged or confidential within the meaning of exemption 4 of the Freedom of Information Act, 5 U.S.C. §552(b)(4), as well as information described in Petition of the State of California and the Public Utilities Commission of the State of California to Retain Regulatory Authority over Intrastate Cellular Service Rates, Order, DA 95-111, PR Docket No. 94-105, released January 25, 1995, pp. 22-23, paragraph 34.

2. Confidential Information submitted herein by the State of California and the Public Utilities Commission of the State of California (California) shall be segregated from all material filed and deemed non-confidential as generally set forth in the pleadings filed publicly by CPUC on August 9, 1994, and subsequent revisions filed on September 14, 1994, and February 2, 1995 in PR Docket No. 94-105 (Proceeding). Confidential Information, thus segregated, shall consist of material specified by the Commission in its Order, DA 94-111 (Jan. 25, 1995) or any subsequent actions in these proceedings.

3. Confidential Information may be disclosed, directly or indirectly, only to:

- a. Counsel for the Parties to this Proceeding (Parties) and their associated attorneys, paralegals, clerical staff and other employees, to the extent reasonably necessary to render

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professional services in this proceeding, provided that such persons are not representing or advising or otherwise assisting providers of California commercial mobile radio services in devising marketing plans to compete against California carriers that are Parties to this Proceeding;

- b. Specified persons, including employees of the Parties, requested by counsel to furnish technical or other expert advice or service, or otherwise engaged to prepare material for the express purpose of formulating filings in connection with PR Docket No. 94-105, excluding those persons who are directly or indirectly involved in or have direct or indirect supervisory responsibilities over the development of marketing plans for California commercial mobile radio services providers to compete against California cellular carriers that are Parties to this Proceeding; or
- c. Any person designated by the Commission in the public interest, upon such terms as the Commission may deem proper.

4. Counsel may request that the Commission provide one copy of Confidential Information (for which counsel must, as a prerequisite, acknowledge receipt pursuant to this Order), and counsel may thereafter make no more than two additional copies but only to the extent required and solely for the preparation and use in this proceeding, and provided further, that all copies of the Confidential Information shall remain in the care and control of counsel at all times and shall not pass to any other persons. Following the filing of Further Comments on February \_\_, 1995, counsel shall retain custody of the Confidential Information until such time as it is necessary to prepare additional filings in connection with PR Docket No. 94-105 in the discretion of counsel. If such additional filings are necessary, counsel shall retain custody of the Confidential Information following submission of such additional filings. Counsel shall return to the Commission within forty-eight hours after the final resolution of PR Docket No. 94-105 all Confidential Information originally provided by the Commission as well as copies made, and shall certify that no material whatsoever derived from such Confidential Information has been retained by any person having access thereto, except that counsel may retain copies of pleadings submitted on behalf of clients.

5. Confidential Information shall not be used by any person granted access under this Order for any purpose other than for use in this proceeding (including any subsequent administrative or judicial review), and shall not be used for

competitive business purposes or otherwise disclosed by such persons to any other person except in accordance with this Order. This shall not preclude the use of any material or information that is in the public domain or has been developed independently by any other person who has not had access to the Confidential Information nor otherwise learned of its contents.

6. a. Before access to Confidential Information, counsel must apply for access to such materials by executing the attached Declaration.
- b. Counsel may disclose Confidential Information to persons to whom disclosure is permitted under the terms of paragraph 3 of this Order only after advising such persons of the terms and obligations of this Order and obtaining such person's written consent to be bound by its terms, except that written consent need not be obtained from paralegals and clerical staff.
- c. Counsel shall provide to the FCC and, in the absence of a need for confidentiality, to California and/or the other Parties, the name and affiliation of each person other than counsel to whom disclosure is made or to whom actual physical control over the documents is provided, by the deadline prescribed by the Commission for filing comments on the Confidential Information, or within three (3) business days after the disclosure if such disclosure occurs after the deadline for filing such comments. To the extent that any name is not disclosed to California, that fact shall be disclosed to the FCC and California.

7. Parties may, in any pleading that they file in this proceeding, reference the Confidential Information, but only if they comply with the following procedures:

- a. Any portions of the pleading that contain or disclose Confidential Information must be physically segregated from the remainder of the pleading;
- b. The portions containing or disclosing Confidential Information must be covered by a separate letter referencing this Protective Order; and

- c. Each page of any Party's filing that contains or discloses Confidential Information subject to this Order must be clearly marked: "Confidential Information included pursuant to Protective Order, PR Docket No. 94-105."
- d. The confidential portion(s) of the pleading shall be served upon the Secretary of the Commission and California, and one and only one copy shall be served upon those individuals who have signed the attached Declaration, and such confidential portions shall be served under seal, and shall not be placed in Commission's Public File, unless the Commission directs otherwise (with notice to the Party that filed the pleading and an opportunity to comment on such proposed disclosure). The Parties shall provide courtesy copies to the Legal Advisor to the Wireless Telecommunications Bureau Chief and to the Chief, Policy Division, Wireless Telecommunications Bureau, who will ensure that copies are distributed to the appropriate Commission personnel.

8. Disclosure of materials described herein shall not be deemed a waiver by California or any other Party in any other proceeding, judicial or otherwise, of any privileges or entitlement to confidential treatment of such Confidential Information. Inspecting parties, by viewing said documents: (a) agree not to assert any such waiver; (b) agree not to use information derived from any confidential materials to seek disclosure in any other proceedings; and (c) agree that accidental disclosure of privileged information shall not be deemed a waiver of the privilege.

9. The entry of this Order is without prejudice to the rights of California to apply for additional or different protection where it is deemed necessary or to the rights of the Parties to request further or renewed disclosure of Confidential Information. Moreover, it in no way precludes the Commission from disclosing any information where the public interest so requires.

The Cellular Carriers Association of California hereby acknowledges and agrees to abide by the terms of the above Protective Order. The signed declarations of the persons representing the Cellular Carriers Association of California who will have access to the Confidential Information are attached.

Respectfully submitted,

WRIGHT & TALISMAN, P.C.

By Michael B. Day  
Michael B. Day

WRIGHT & TALISMAN, P.C.

100 Bush Street, Suite 225  
San Francisco, CA 94104  
(415) 781-0701

February 13, 1995

Attorneys for Cellular  
Carriers Association of  
California

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DECLARATION

PR DOCKET 94-105

I, Stanley M. Besen, hereby declare under penalty of perjury that I have read the Protective Order that has been entered by the Wireless Telecommunications Bureau in Federal Communications Commission proceeding PR Docket No. 94-105, and I agree that I will be bound by its terms pertaining to the confidentiality of Confidential Information and that I am not involved in devising marketing plans for any of the Parties.

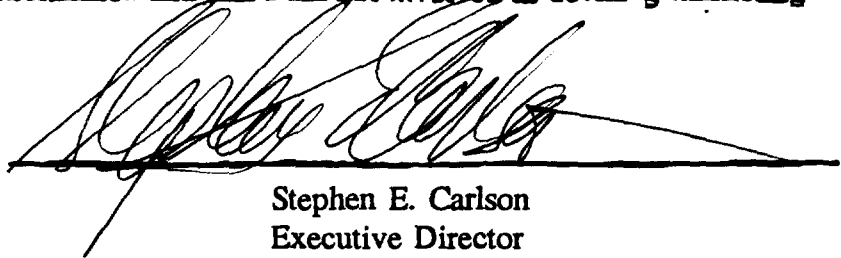
Stanley M Besen  
11/30/95

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**DECLARATION**

**PR DOCKET [ 94-105 ]**

I, Stephen E. Carlson, hereby declare under penalty of perjury that I have read the Protective Order that has been entered by the Wireless Telecommunications Bureau in Federal Communications Commission proceeding PR Docket No. 94-[105 ], and that I agree that I will be bound by its terms pertaining to the confidentiality of Confidential Information and that I am not involved in devising marketing plans for any of the Parties.

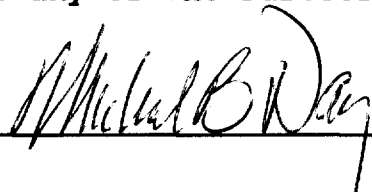
A handwritten signature in dark ink, appearing to read 'Stephen E. Carlson', is written over a horizontal line.

Stephen E. Carlson  
Executive Director  
Cellular Carriers Association of California

**DECLARATION**

**PR DOCKET [94-105]**

I, Michael B. Day, hereby declare under penalty of perjury that I have read the Protective Order that has been entered by the Wireless Telecommunications Bureau in Federal Communications Commission proceeding PR Docket No. 94-105, and that I agree that I will be bound by its terms pertaining to the confidentiality of Confidential Information and that I am not involved in devising marketing plans for any of the Parties.

  
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DECLARATION

PR DOCKET 94-105

I, Robert J. Larner, hereby declare under penalty of perjury that I have read the Protective Order that has been entered by the Wireless Telecommunications Bureau in Federal Communications Commission proceeding PR Docket No. 94-105, and I agree that I will be bound by its terms pertaining to the confidentiality of Confidential Information and that I am not involved in devising marketing plans for any of the Parties.

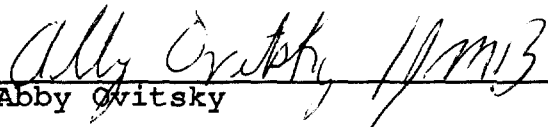
Robert J. Larner  
January 27, 1995

CERTIFICATE OF SERVICE

I, Abby Ovitsky, certify that I have this date caused the foregoing PROTECTIVE ORDER AND DECLARATION OF CELLULAR CARRIERS ASSOCIATION OF CALIFORNIA to be served by United States mail on the parties of interest in PR Docket No. 94-105 as set forth on the attached service list.

I declare under penalty of perjury pursuant to the laws of the State of California that the foregoing is true and correct.

Executed on February 13, 1995 at San Francisco, California.

  
Abby Ovitsky